IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 18117 of 2007(R)

PETITIONER:

PRAVEEN.A., AGED 39, S/O.LATE ACHUTHAN,
GURUKKALAOTH HOUSE, NEAR JUDGES BUNGALOW,
DISTRICT COURT, THALASSERY.

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.T.V.JAYAKUMAR NAMBOODIRI

RESPONDENTS:
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1. HIGH COURT OF KERALA,
REP. BY REGISTRAR GENERAL,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SECRETARY,
MUNSIFF MAGISTRATE RECRUITMENT COMMITTEE,
HIGH COURT OF KERALA, ERNAKULAM.

3. STATE OF KERALA, REP. BY LAW SECRETARY,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

BY ADV. SRI.KRB.KAIMAL (SR.) R1 AND R2
SRI.B.UNNIKRISHNA KAIMAL
GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007 ALONG WITH WPC NO. 18366/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 18117/2007 R

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE DISABILITY CERTIFICATE ISSUED FROM THE HEALTH SERVICE DEPARTMENT, GOVT. OF KERALA, THIRUVANANTHAPURAM.

EXT.P2. COPY OF THE LETTER NO.B1/87546/2006 B4 DT. 4/6/2007 BY THE R2.

EXT.P3. COPY OF THE NOTIFICATION DT. 15/2/2007.

EXT.P4. COPY OF THE ORDER GO P NO. 167/64/PD DT. 13/5/64.

EXT.P5. COPY OF THE GO P NO. 119/2005/SWD DT. 6/08/2005.

True copy

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K. BALAKRISHNAN NAIR, J.

W.P.(C) No.18117 & 18366 of 2007

Dated this the 15th June, 2007.

JUDGMENT

The petitioners in these writ petitions are physically handicapped persons. They mainly claim two reliefs. The first relief is that reservation may be provided in the matter of recruitment to the post of Munsiff Magistrate to physically handicapped persons. The second claim is that they are entitled to get age relaxation upto ten years, over and above the age limit prescribed in the notification. The first point raised by them, regarding reservation, is covered against them by the decision of this Court in W.P.(C)No.14604 of 2007 dated 12.6.2007.

2. In support of the second claim, the petitioner in writ petition No.18117 of 2007 relied on Ext.P4 order of the Government dated 13.5.1964. The said order authorised the Public Service Commission and appointing authorities to include a condition in notifications issued by them, inviting applications for appointment, that physically handicapped persons will get relaxation of age upto ten years, if they are found

otherwise suitable and competent to discharge the duties attached to the post. The petitioner in writ petition No.18366 of 2007 relied on G.O.(P)No.158/73/PD dated 29.5.1973, Ext.P4 in the said writ petition, by which physically handicapped persons are given age relaxation upto ten years. They also rely on the note to clause 4 of the notification issued by this Court dated 15.2.2007, inviting applications for appointment to the post of Munsiff Magistrate. As per the said note, the provisions of Rule 10 of the Kerala State and Subordinate Services Rules regarding relaxation of age limit will apply. On the above grounds the petitioners pray that they may be given age relaxation and the orders rejecting their applications, stating that they are overaged, which are produced as Ext.P2 and P5 respectively in the writ petitions, may be quashed.

3. Heard the learned counsel appearing for the first respondent and the Government Pleader for the 2nd respondent. They brought to my notice the amendment introduced to Rule 10 of the Kerala Judicial Service Rules, 1991, which was enforced with effect from 31.8.2006. According to the respondents Rule 10(c) of

the said rules specifically provides that age relaxation is applicable only in the case of Scheduled caste/Scheduled Tribe and other backward classes. They would submit that the provisions of the special rules will prevail over the provisions of the general rules, as well as executive orders issued in 1973.

4. Rule 10(1)(c) of the Kerala Judicial Service Rules, which was introduced in 2006, reads as follows:

> "(c) He shall not have completaed 35 years of age, on the first day of January of the year in which application for appointment are invited:
>
> Provided that the provisions in sub-rule (c) of R.10 of the Kerala State and Subordinate Services Rules, 1958, raising the upper age limit in the case of members of the Scheduled Castes, Scheduled Tribes and Other Backward Classes shall be applicable to such candidates for appointment to category 2."

5. In answer to the contentions of the respondents, the learned counsel for the petitioners pointed out that the orders issued in 1964 and 1973

should be taken as supplementing Rule 10(1)(c) of the Special Rules.

6. In matters like qualifications, age, etc., the provisions contained in the Special Rules will prevail over other rules and orders. Regarding age relaxation, there is a specific provision in the special rules, which covers only Scheduled Caste/Scheduled Tribe and Other Backward Class candidates. Therefore, the contention of the petitioners that they are entitled to get relaxation of age limit on the strength of the executive orders issued in 1973 cannot be upheld.

In the result, this writ petition fails and is dismissed.

K. BALAKRISHNAN NAIR,
JUDGE.

vav.